

Baker & Hostetler LLP

45 Rockefeller Plaza

New York, NY 10111

Telephone: (212) 589-4200

Facsimile: (212) 589-4201

David J. Sheehan

Nicholas J. Cremona

Jonathan B. New

Robertson Beckerlegge

Robyn Feldstein

*Attorneys for Irving H. Picard, Trustee for the
Substantively Consolidated SIPA Liquidation of
Bernard L. Madoff Investment Securities LLC and
the Estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

FGLS Equity, LLC,

Defendant.

Adv. Pro. No.10-05191 (SMB)

STIPULATION AND ORDER FOR VOLUNTARY DISMISSAL
OF ADVERSARY PROCEEDING WITH PREJUDICE
AND OF COUNTERCLAIM WITHOUT PREJUDICE

Irving H. Picard (the “Trustee”), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities LLC under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.*, and the substantively consolidated estate of Bernard L. Madoff individually, by and through his counsel, Baker & Hostetler LLP, and defendant FGLS Equity, LLC, (“Defendant”), by and through its counsel, Arkin Solbakken (collectively, the “Parties”), hereby stipulate and agree to the following:

1. On December 3, 2010, the Trustee filed and served the Complaint against FGLS Equity, LLC.
2. On May 26, 2011, FGLS Equity, LLC served an Answer and Counterclaim on the Trustee.
3. On May 14, 2015, FGLS Equity, LLC filed a Motion for Judgment on the Pleadings.
4. On June 22, 2015, the Supreme Court of the United States denied certiorari of the Trustee’s appeal of *SIPC v. Ida Fishman Revocable Trust*, 14-1128 and *Picard v. Ida Fishman Revocable Trust*, 14-1129 (the “Supreme Court Decision”), and thus section 546(e) of the Bankruptcy Code applies to this proceeding.
5. Pursuant to the Supreme Court Decision, and in accordance with Federal Rule of Bankruptcy Procedure 7041(a)(1)(ii), and Federal Rule of Civil Procedure 41(a)(1), the Parties hereby stipulate to a dismissal with prejudice of the above-captioned adversary proceeding, and to dismissal without prejudice of the Defendant’s Counterclaim against the Trustee.
6. The parties further stipulate to the withdrawal of Defendant’s Motion for Judgment on the Pleadings.

7. The provisions of this Stipulation shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns and upon all creditors and parties of interest.

8. The Parties reserve all rights and defenses they might otherwise have.

9. This Stipulation may be signed by the Parties in any number of counterparts, each of which when so signed shall be an original, but all of which shall together constitute one and the same instrument. A signed facsimile, photostatic or electronic copy of this Stipulation shall be deemed an original.

Dated: September 18, 2015

BAKER & HOSTETLER LLP

By: /s/ Jonathan B. New
45 Rockefeller Plaza
New York, New York 10111
Telephone: 212.589.4200
Facsimile: 212.589.4201
David J. Sheehan
Email: dsheehan@bakerlaw.com
Nicholas J. Cremona
Email: ncremona@bakerlaw.com
Jonathan B. New
Email: jnew@bakerlaw.com
Robertson Beckerlegge
Email: rbeckerlegge@bakerlaw.com
Robyn Feldstein
Email: rfeldstein@bakerlaw.com

*Attorneys for Plaintiff Irving H. Picard, Trustee for
the Liquidation of Bernard L. Madoff Investment
Securities LLC and the Estate of Bernard L. Madoff*

ARKIN SOLBAKKEN LLP

By: /s/ Alex Reisen
750 Lexington Avenue
New York, New York 10022
Telephone 212.333.0200
Lisa C. Solbakken
Email: lsolbakken@arkin-law.com
Stanley Arkin
Email: sarkin@arkin-law.com
Alex Reisen
Email: areisen@arkin-law.com

Attorneys for Defendant FGLS Equity LLC

Dated: September 18th, 2015
New York, New York

/s/ STUART M. BERNSTEIN
HONORABLE STUART M. BERNSTEIN
UNITED STATES BANKRUPTCY JUDGE